UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/21969
28 November 1990

ORIGINAL: ENGLISH

Canada, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Recalling and reaffirming its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990) and 677 (1990),

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above subsequent relevant resolutions, in flagrant contempt of the Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of the Charter of the United Nations,

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. Authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement Security Council resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of this resolution;

4. Requests the States concerned to keep the Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of this resolution;

5. Decides to remain seized of the matter.

90-33056 2317E

UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/21970
28 November 1990

ORIGINAL: ENGLISH

Draft resolution

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988, 631 (1989) of 8 February 1989, 642 (1989) of 29 September 1989, 651 (1990) of 29 March 1990 and 671 (1990) of 27 September 1990,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 23 November 1990 1/ and taking note of the observations expressed therein,

1. Decides to extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of two months, that is, until 31 January 1991, as recommended by the Secretary-General;

2. Requests the Secretary-General to submit, during January 1991, a report on his further consultations with the parties about the future of the United Nations Iran-Iraq Military Observer Group, together with his recommendations on this matter.

1/ S/21960.

90-32987 2830Z (E)

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UNITED
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General Assembly Security Council

Distr.
GENERAL

A/45/808
S/21971
28 November 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 43
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-fifth year

Letter dated 28 November 1990 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to attach herewith a letter dated 28 November 1990 addressed to you by His Excellency Mr. Özer Koray, representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the present letter and its annex were circulated as a document of the General Assembly, under agenda item 43, and of the Security Council.

(Signed) Mustafa AKSIN
Ambassador
Permanent Representative

ANNEX

Letter dated 28 November 1990 from Mr. Özer Koray to the Secretary-General

Upon instructions from my Government, I would like to refer to the letter dated 19 October 1990 (A/45/658-S/21898) by the Greek Cypriot representative, Mr. Andreas Mavrommatis, in connection with the opinion given by Mr. E. Lauterpacht, CBE, QC, dated 9 March 1990 (A/44/928-S/21190), and to make the following observations on the claims made by the Greek Cypriot representative in his above-mentioned letter:

As you are well aware, the practice of circulating Turkish Cypriot documents in the United Nations General Assembly and the Security Council, through the facility provided by the Government of Turkey, has been followed for many years, as this is the only way of enabling the views of the Turkish Cypriot side to be heard, in accordance with the principle of equality and natural justice and within the spirit of Security Council resolutions, which lay down that the intercommunal talks held under Your Excellency's auspices should be held on an equal footing. It is impermissible that the Greek Cypriot side, in line with its policy of trying to stifle the voice of Turkish Cypriot people, should again attempt to sabotage this well-established practice in order to deprive the Turkish Cypriot side of its legitimate right to be heard in the organs of the United Nations in the same manner as enjoyed by the Greek Cypriot side.

In the second paragraph of the Greek Cypriot letter of 19 October 1990 the Greek Cypriot side is repeating its well-known position of denying the status of the Turkish Cypriots as a separate people possessed of a distinct national, religious and cultural identity, with its right of self-determination. With regard to the quotation in the second paragraph of the Greek Cypriot letter from your report to the Security Council dated 8 March 1990 (S/21183) to the effect that, at the summit meeting in New York between 22 February-2 March 1990, the views of the two sides had "posed more than a semantic problem", I would like to draw your attention to the whole of paragraph 13 of the said report where it is clear that your reference to the matter being more than a "semantic problem" was with regard to the use of the appropriate terminology to describe the status of the two politically equal entities that will form a federation.

As regards the third paragraph of the letter in question, it is a pleasant surprise to see the Greek Cypriot representative acknowledging in such concise and clear terms that the object of the document which the Turkish Cypriot side have circulated, with the kind assistance of Turkey, is "to cast doubt on the legitimacy of the Government of the Republic of Cyprus". Indeed, there is no doubt that the Greek Cypriot government of southern Cyprus is not, and cannot be, the legitimate government of the whole of Cyprus as established by the 1960 settlement, neither in law (international or domestic) nor in fact, nor morally. (See the Opinions of Mr. E. Lauterpacht and Mr. M. Leigh which have been circulated as United Nations documents bearing the following references: A/44/928-S/21190; A/44/968-S/21463; and A/44/967-S/21420.)

With regard to the allegation made in the letter concerning the "invitation" of the Greek Cypriot side to refer the Cyprus dispute to the International Court of Justice, either under paragraph (1) or (2) of Article 36, suffice to say that propaganda statements by an administration which lacks legitimacy is without legal foundation and cannot be taken seriously. For 27 years the Greek Cypriots have violated international law in this manner.

It is alleged in the Greek Cypriot letter that "self-determination had already been exercised by the people of Cyprus as a whole in accordance with the International Instruments of 1960". This statement is incorrect both in fact and in law. It is not true to say that the right of self-determination had been exercised "by the people of Cyprus as a whole" because it is a fact, as evidenced by the 1960 International Instruments and various documents relating thereto, that that right was exercised individually by the two peoples of Cyprus - the Turkish Cypriots and the Greek Cypriots - and it was only after agreement had been reached between these two peoples that the bi-communal partnership Republic of Cyprus was established. It is for this reason that all the relevant documents relating to the establishment of the 1960 Republic were signed by both the respective leaders of the two sides.

The Greek Cypriot letter by stating that the right of self-determination had already been exercised implies that the right of self-determination of free peoples can be exercised only once and that the right is a static one. This is not correct. The right of self-determination is a dynamic right and can be exercised, should the need arise, on more than one occasion. Indeed, the second part of paragraph (7) of the fifth principle entitled "The principle of equal rights and self-determination of peoples" of the Declaration of Friendly Relations (2625 (XXV)) envisages that the right of self-determination can be exercised when the people possessing such right is not "possessed of a government representing the whole people belonging to the territory, without distinction as to race, creed or colour". Furthermore, the dynamic character of the right of self-determination is also evidenced in the eighth principle of the decalogue of principles of the Helsinki Final Act of 1975 which says that "peoples always have the right to determine when as they wish ..." their future political status.

The Greek Cypriot representative's contention in his letter is an attempt to discredit the opinion of the eminent scholar, Mr. Lauterpacht. This distinguished British international lawyer is being criticized for not being impartial and it is alleged that his opinion "provides contradictory interpretations to those given by Mr. Lauterpacht in a much earlier opinion to the Cyprus Government on 30 January 1964 when he dealt with some of the same substantive issues". The Greek Cypriot representative then compares three passages in the 1964 document and the 1990 Opinion to expose what he calls "some of the most jarring contradictions".

The fact that the 1964 document contains the passages cited in the letter of the Greek Cypriot representative is not disputed. However, the Greek Cypriot representative is quite wrong in his assertion that the 1964 document is an "Opinion" and that, therefore, there is a contradiction between Mr. Lauterpacht's 1964 "Opinion" and his 1990 "Opinion". The 1964 document was not an opinion. It is headed "Note", not "Opinion". Its opening paragraph reads: "I have thought it

best in present conditions not to attempt a formal opinion on the various problems of international law which arise. Instead I have set down ... some notes and ideas on the principal questions of law which have been raised ...". The Note contained a statement of arguments that the Greek Cypriot Government might use to support its position. It is, of course, known that there is a fundamental difference between an "opinion" (as was the case in March 1990) and statement of possible "arguments". The former, as an objective expression of the law, engages the intellectual and professional responsibility of the author, the latter does not. The manner in which Mr. Lauterpacht introduced his Note of 30 January 1964 makes it clear that he was not at that time expressing an opinion. Moreover, the whole tenor of his Note indicates that even then he had important reservations about the Greek Cypriot position.

A careful examination of the 1964 Note will show that the Note is not an Opinion and that the statements now lifted out of context by the Greek Cypriot representative are statements of possible arguments, no more. The following excerpts from the Note of January 1964 make this abundantly clear:

(i) "the following arguments may be used in refuting this suggestion:"

(ii) "and the following appear, to me to be some such arguments:"

(iii) "There are certain evident counter-arguments to the above, but they need not be weighed here. The suggestion made above, unless there is some special political reason for rejecting it, would seem to make a prima facie case for the constitutionality of what is being proposed; and if it advanced by the representative of Cyprus it is unlikely to be strongly opposed."

It is most unfortunate that at a time when every effort is being made by all concerned to reactivate intercommunal dialogue the Greek Cypriot side should deem fit to circulate a document which, as will be seen from the above, is full of offensive and anti-Turkish propaganda and which attempts to impugn the integrity, in a dishonest manner, of a distinguished jurist.

I should be grateful if this letter were circulated as a document of the General Assembly, under agenda item 43, and of the Security Council.

(Signed) Özer KORAY
Representative of the Turkish
Republic of Northern Cyprus